

REMARKS

Status of the Claims

Claims 1, 9-18, 20, 21, 23-35, 38-39, 42-55, 57-86, 88-89 and 91-125 are pending. Claims 2-8, 19, 22, 36-37, 40-41, 56, 87 and 90 are canceled without prejudice or disclaimer. Claims 42-55, 57-89 and 91-124 are withdrawn as drawn to a nonelected invention. Claims 1, 9-18, 20, 21, 23-35, 38-39, 42-55, 57-86, 88-89 and 91-125 remain in the case for further consideration.

Claim Amendments

For convenience, reference to the Specification refers to the published application No. 20040219203. However, Applicants note that the same recitations were present in the application as filed.

Claims 1, 42 and 119 are amended to add recitation of an scFv. The amendment is supported in the Specification (Publ. No. 20040219203) at least at Paragraphs 0021, 0048, 0059, 0067 and 0070.

Claim 38 is amended to be consistent with amended claim 1.

Claim 54 is amended to depend from claim 53 to provide antecedent basis support.

Claims 75 and 109 are amended to correct obvious spelling errors.

Claim 86 is amended to provide antecedent basis support.

Claim 119 is amended to recite a "composition" instead of a "carrier," to provide antecedent basis support for "antigen binding fragment," and to clarify that the antibody or fragment thereof binds to the carrier. Support for the amendment may be found in original claim 1 and in the Specification at least at Paragraph 0007.

Applicants respectfully submit that no new matter is added by amendment.

Rejection of Claims Under 35 U.S.C. 112, 2nd Paragraph

Claims 54, 86, 87 and 119-124 were rejected under 35 U.S.C. 112, second paragraph as indefinite. The Action points to a lack of antecedent basis support for claim 54 in claim 43. Claim 54 is amended herein to depend from claim 53. Claim 86 is amended herein to replace "the additional composition comprises" with "the composition further comprises". Cancellation of claim 87 moots the rejection. Claim 119 is amended herein to replace "carrier" in the preamble with "composition," to provide antecedent basis support for "antigen-binding fragment" in line 5 of claim 119 and to clarify that the diabody, triabody, tetrabody or scFv binds to the carrier.

Applicants respectfully submit that the amended claims satisfy the requirements of 35 U.S.C. 112, second paragraph.

Rejection of Claims Under 35 U.S.C. 112, 2nd Paragraph

Claims 1, 9-13, 20, 21, 25, 26, 29-30, 32, 33, 35, 38, 39, 42, 44, 51-55, 57, 59, 60, 62, 63, 66, 67, 71-74, 84-89, 91, 93, 94, 96-98, 100-102, 106-108, 118, 119, 121 and 123-125 were rejected under 35 U.S.C. 103 over Goldenberg et al. (U.S. 7,074,403) as evidenced by Hoaruau et al., (U.S. 2004/0076683) in view of Lundberg et al. (Int Journal of Pharmaceutics, 1996, 134:119-127).

Although Applicants respectfully traverse the rejection, in the interest of advancing prosecution Applicants' representative states that Goldenberg (U.S. Patent 7,074,403) and the subject matter claimed in the instant application were commonly owned, or subject to an obligation of assignment to the same person (Immunomedics, Inc.) at the time the claimed invention was made and therefore U.S. Patent 7,074,403 is disqualified as 102(e)/103 prior art under 35 U.S.C. 103(c).

Conclusion

For the reasons stated above, Applicants submit that the amended claims are in condition for allowance and request an early decision to that effect.

Respectfully submitted,

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